



3626

Attorney Docket no: PHO-104

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Watcher et al.

Serial No.: 09/096,832

Filed: June 12, 1998

For: Improved Methods and Apparatus For  
Multi-Photon Photo-Activation of  
Therapeutic Agents

Examiner: D. Nguyen

Art Unit: 3626

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

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Commissioner for Patents,  
P.O. Box 1450, Alexandria, VA 22313-1450 on

January 15, 2003  
(Date of Deposit)

Shannon Wallace

Name of applicant, assignee, or Registered Rep.

Shannon Wallace 1/15/03  
Signature Date

**RECEIVED**

JAN 23 2004

January 15, 2004

**GROUP 3600**

**REQUEST FOR WITHDRAWAL OF SUSPENSION OF APPLICATION**

Sir:

It is the undersign's understanding that prosecution of the above-identified application has been suspended pending the resolution of Patent Interference No. 105,133. As shown in the attached Judgment, that interference has now been resolved in favor of Fisher. The Fisher patent is assigned to the same assignee as the present application.

Accordingly, it is requested that the suspension of prosecution be withdrawn, and prosecution immediately commenced for the present application. Further, in accordance with the Examiner's communication of September 4, 2002, all the claims are allowable. Therefore, it is requested that the application now be allowed.

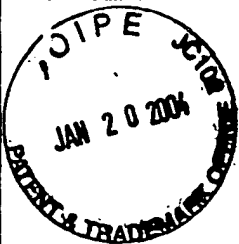
Favorable consideration is earnestly solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Mark J. Murphy', is written over a horizontal line.

Mark J. Murphy  
Registration No. 34,225

COOK, ALEX, McFARRON, MANZO,  
CUMMINGS & MAHLER, Ltd.  
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THIS OPINION WAS NOT WRITTEN FOR PUBLICATION  
AND IS NOT BINDING PRECEDENT OF THE BOARD

Paper No. 29

Filed by: Trial Section Merits Panel  
Mail Stop Interference  
P. O. Box 1450  
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Tel: 703-308-9797 Fax: 703-305-0942

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

**FAXED**

WALTER G. FISHER, ERIC A. WACHTER  
and H. CRAIG DEES,  
Junior Party,  
(Patent No. 5,829,448)

**JAN 13 2004**

PAT. & T.M. OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

v.

PARAS N. PRASAD, JAYANT D. BHAWALKAR,  
GUANG S. HE, CHAN F. ZHAO  
and JAROSLAW ZIEBA,  
Senior Party  
(Application 09/265,625)

**RECEIVED****JAN 23 2004****GROUP 3600**

Patent Interference No. 105,133

Before LEE, LANE and MEDLEY, Administrative Patent Judges.

LEE, Administrative Patent Judge.

**Judgment**

On January 8, 2004, senior party Prasad filed a paper requesting entry of adverse judgment. The request is granted. It is

**ORDERED** that judgment as to the subject matter of Count 1 is hereby entered against senior party PARAS N. PRASAD, JAYANT D. BHAWALKAR, GUANG S. HE, CHAN F.

Interference No. 105,133  
Fisher v. Prasad

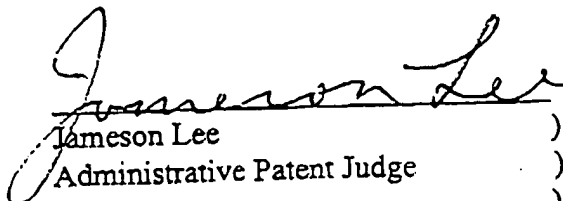
ZHAO and JAROSLAW ZIEBA;

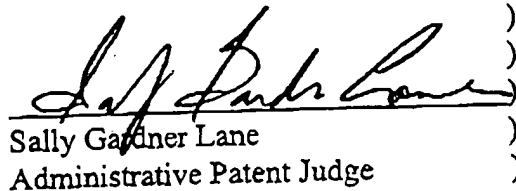
**FURTHER ORDERED** that senior party PARAS N. PRASAD, JAYANT D. BHAWALKAR, GUANG S. HE, CHAN F. ZHAO and JAROSLAW ZIEBA is not entitled to its application claims 290-310 and 313-320 which correspond to Count 1;

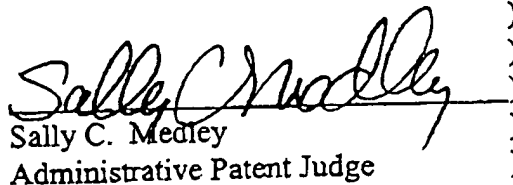
**FURTHER ORDERED** that to the extent the senior party desires to abandon claims additional to those corresponding to the count, it shall take that up with the primary examiner after termination of the interference;

**FURTHER ORDERED** that if there is a settlement agreement, the parties should note the requirements of 35 U.S.C. § 135(c) and 37 CFR § 1.666; and

**FURTHER ORDERED** that a copy of this judgment be filed in the respective involved application or patent of the parties.

  
Jameson Lee  
Administrative Patent Judge

  
Sally Gardner Lane  
Administrative Patent Judge

  
Sally C. Medley  
Administrative Patent Judge

BOARD OF PATENT  
APPEALS  
AND  
INTERFERENCES

Interference No. 105,133  
Fisher v. Prasad

By Facsimile

Counsel for Senior Party Prasad:

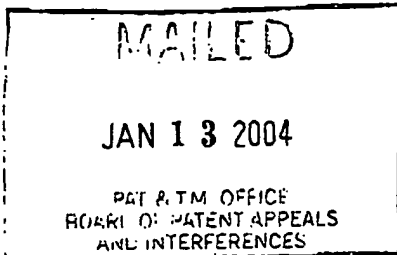
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Paper No.27

Interference No. 105133



WALTER G. FISHER

V.

PARAS N. PRASAD

The copy of the agreement under 35 U.S.C § 135(c) filed by Prasad, on January 8, 2004, is acknowledged. Pursuant to the request, this agreement will be kept separate from the file of the interference as provided in the statute.

Tw

A handwritten signature in cursive script, appearing to read "Wanda M. Tigner".

Wanda M. Tigner, Sup'v Legal  
Instrument Examiner  
Board of Patent Appeals and Interferences  
(703) 308-9797

TITLE:

TWO-PHOTON UPCONVERTING DYES AND  
APPLICATIONS  
REAL PARTY IN INTEREST: XANTECH PHARMACEUTICALS, INC.  
(for WALTER G. FISHER)

GROUP:

THE RESEARCH FOUNDATION OF STATE UNIVERSITY  
OF NEW YORK  
(for PARAS N. PRASAD)  
3626